



209247

October 28, 2003

VIA UPS OVERNIGHT DELIVERY

ENTERED
Office of Proceedings

Mr. Vernon Williams, Secretary
Surface Transportation Board
1925 "K" Street, N.W.
Washington, DC 20423-0001

OCT 29 2003

Part of
Public Record

RE: STB Docket No. AB-33 (Sub-No. 208X), Union Pacific Railroad
Company - Abandonment Exemption - In Marshall County, Kansas
(Marietta Industrial Lead) from M.P. 133.13 to M.P. 125.0

Dear Mr. Williams:

Pursuant to the Board's exemption procedures for abandonment of rail lines with no local business for at least two years (49 C.F.R. 1152.50), enclosed are an original and ten (10) copies of a verified Notice of Exemption including a Certificate of Service and Publication.

Please file the Notice of Exemption in Docket No. AB-33 (Sub-No. 208X). Enclosed is our check in the amount of \$2,800.00 for filing fees.

Sincerely yours,

FEE RECEIVED

OCT 29 2003

**SURFACE
TRANSPORTATION BOARD**

Enclosures

cc: All parties of record

FILED

OCT 29 2003

**SURFACE
TRANSPORTATION BOARD**



Mack H. Shumate, Jr.
Senior General Attorney, Law Department

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UNION PACIFIC RAILROAD
101 N. Wacker Dr., Rm. 1920, Chicago, IL 60606-1718
ph. (312) 777-2055 fx. (312) 777-2065

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Before the
SURFACE TRANSPORTATION BOARD

Docket No. AB-33 (Sub-No. 208X)

UNION PACIFIC RAILROAD COMPANY
-- ABANDONMENT EXEMPTION --
IN MARSHALL COUNTY, KANSAS
(MARIETTA INDUSTRIAL LEAD)

NOTICE OF EXEMPTION

ENTERED
Office of Proceedings

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Public Record

TRANSPORTATION BOARD

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SURFACE
TRANSPORTATION BOARD

UNION PACIFIC RAILROAD COMPANY

Mack H. Shumate, Jr., Senior General Attorney
101 North Wacker Drive, Room 1920
Chicago, Illinois 60606
(312) 777-2055
(312) 777-2065 FAX

Dated: October 28, 2003
Filed: October 29, 2003

Before the
SURFACE TRANSPORTATION BOARD

Docket No. AB-33 (Sub-No. 208X)

UNION PACIFIC RAILROAD COMPANY
-- ABANDONMENT EXEMPTION --
IN MARSHALL COUNTY, KANSAS
(MARIETTA INDUSTRIAL LEAD)

NOTICE OF EXEMPTION

Union Pacific Railroad Company ("UP") submits this verified Notice of Exemption pursuant to 49 § C.F.R. 1152, Subpart F -- Exempt Abandonments and Discontinuances of Service and Trackage Rights, for an exempt abandonment and discontinuance of service, from milepost 133.13 near Marysville to milepost 125.00 near Marietta, a distance of 8.13 miles, over the Mariatta Industrial Lead in Marshall County, Kansas (the "Line").

Proposed Consummation Date: 49 C.F.R. § 1152.50 (d)(2)

The abandonment is proposed to be consummated on or after December 18, 2003 (at least 50 days after filing the Notice of Exemption).

Certification: 49 C.F.R. 1152.50(b)

UP certifies that no local traffic has moved over the Line for at least two years; and that no formal complaint filed by a user of rail service on the Line (or filed by a state or local governmental entity acting on behalf of such user) regarding cessation of

service over the Line either is pending with this Board or any U.S. District Court or has been decided in favor of the complainant within the two-year period. UP further certifies that there is no overhead traffic moving on the Line.

Additional Information Required: 49 C.F.R. 1152.22(a)(1)-(4), (7)-(8) and (e)(4)

(a) General.

(a)(1) The railroads' exact name is Union Pacific Railroad Company.

(a)(2) UP is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, Chapter 105.

(a)(3) UP intends to abandon the Marietta Industrial Lead from milepost 133.13 near Marysville to milepost 125.00 near Marietta, a distance of 8.13 miles, in Marshall County, Kansas (the "Line"). There are no shippers on the Line.

(a)(4) A map showing the location of the Line in conjunction with other rail lines, highways and major roads in the area is attached as **Exhibit A.**

(a)(7) The representative to whom correspondence regarding this abandonment should be sent is:

Mack H. Shumate, Jr., Senior General Attorney
Union Pacific Railroad Company
101 North Wacker Drive, Room 1920
Chicago, Illinois 60606
(312) 777-2055
(312) 777-2065 FAX

(a)(8) ZIP Code. The Line traverses U. S. Postal Service Zip Code 66508.

(e)(4) Rural and Community Impact. There appears to be no reasonable alternative to the abandonment. There is no local or overhead traffic. The track has been

out of service for over two years. The Line was constructed by the Marysville and Blue Valley Railroad Company in 1880. The Line is laid primarily with 133-pound rail.

Based on information in the UP's possession, the Line proposed for abandonment does not contain federally granted right-of-way. The property proposed for abandonment is not suitable for other public purposes, including roads or highways, other forms of mass transportation, conservation, energy production or transmission because the area is adequately served and access to the Property is limited. The Big Blue River runs in generally the same direction on the west side of the right-of-way and there are no through east-west roads for the entire length of the abandonment. The title to all of the operating right-of-way is reversionary in nature.

Labor Protection

The interests of railroad employees will be protected by the conditions discussed in Oregon Short Line Railroad Co. -- Abandonment -- Goshen , 360 ICC 91 (1979).

Certifications

Attached as **Exhibit B** is a Certificate of Service and Publication pursuant to the notice requirements of 49 C.F.R. §§ 1152.50(d)(1), 1105.11 and 1105.12.

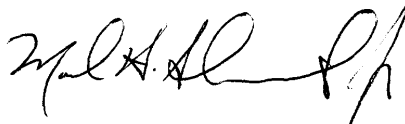
Environmental and Historic Report

A copy of the Transmittal Letter of UP's Combined Environmental and Historic report containing the information required by 49 C.F.R. §§ 1105.7 (e) and 1105.8, and delivered in accordance with 49 C.F.R. 1105.11, is attached hereto as **Exhibit C** and hereby made a part hereof. The original and ten (10) copies were sent to Ms. Victoria Rutson, Section of Environmental Analysis (SEA), on September 24, 2003.

Dated this 28th day of October, 2003.

Respectfully submitted,

UNION PACIFIC RAILROAD COMPANY

A handwritten signature in black ink, appearing to read "Mack H. Shumate, Jr.", with a stylized flourish at the end.

Mack H. Shumate, Jr., Senior General Attorney
101 North Wacker Drive, Room 1920
Chicago, Illinois 60606
(312) 777-2055
(312) 777-2065 FAX

VERIFICATION

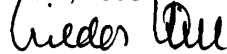
STATE OF NEBRASKA)
) ss:
COUNTY OF DOUGLAS)

I, RAYMOND E. ALLAMONG, JR., Manager Rail Line Planning of Union Pacific Railroad Company, declare under penalty of perjury, under the laws of the United States of America, that I have read the foregoing document and that its assertions are true and correct to the best of my knowledge, information and belief. I further declare that I am qualified and authorized to submit this verification on behalf of Union Pacific Railroad Company. I know that willful misstatements or omissions of material facts constitute Federal criminal violations punishable under 18 U.S.C. 1001 by imprisonment up to five years and fines up to \$10,000 for each offense. Additionally, I know that these misstatements are punishable as perjury under 18 U.S.C. 1621, which provides for fines up to \$2,000 or imprisonment up to five years for each offense.

Dated at Omaha, Nebraska, this 21st day of October, 2003.


Raymond E. Allamong, Jr.

SUBSCRIBED AND SWORN TO
before me this 21st day of
October, 2003.



Notary Public

My Commission expires:

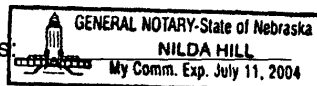
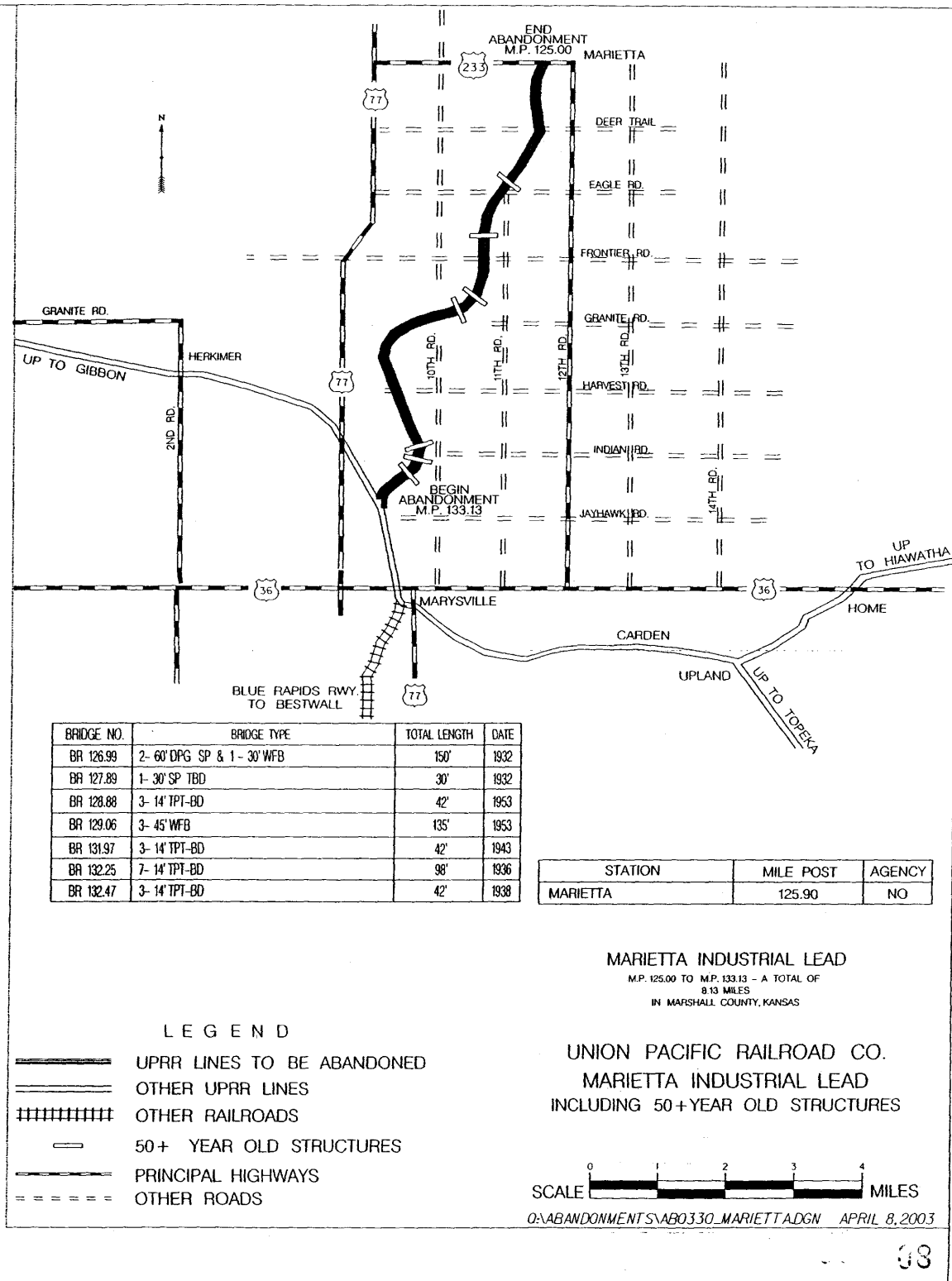


EXHIBIT "A"



DOCKET NO. AB-33 (SUB-NO. 208X)
Marietta Industrial Lead in Marshall County, KS

CERTIFICATE OF SERVICE AND PUBLICATION

49 C.F.R. § 1152.50(d)(1) - Notice

The undersigned certifies that on October 13, 2003 (at least 10 days before a Notice of Exemption is filed), written notice was given of Union Pacific's intent to use the exemption notice procedure to abandon the Marietta Industrial Lead in Marshall County, Kansas in Docket No. AB-33 (Sub-No. 208X). Written notice (a copy of which is attached hereto as Attachment 1) was served on the following:

Kansas Corporation Commission
1500 SW Arrowhead Road
Topeka, KS 66604

National Park Service
William D. Shaddox
Chief, Land Resources Division
1849 "C" St., N.W., #MS3540
Washington, DC 20240

U.S. Department of Agriculture
Chief of the Forest Service
4th Flr. N.W., Auditors Bldg.
14th St. & Independence Ave., SW
Washington, DC 20250

Military Traffic Management Command
Transportation Engr. Agency
Railroads for National Defense
720 Thimble Shoals Blvd., Su.130
Newport News, VA 23606-2574

49 C.F.R. § 1105.11 - Transmittal Letter For Applicant's Report

The undersigned certifies that on September 25, 2003 (at least 20 days before a Notice of Exemption is filed), a Combined Environmental and Historic Report

pursuant to 49 C.F.R. §§ 1105.7 and 1105.8 was served in Docket No. AB-33 (Sub-No. 208X) for abandonment of the Marietta Industrial Lead in Marshall County, Kansas on the following:

- (1) State Clearinghouse (or alternate)
- (2) State Environmental Protection Agency
- (3) State Coastal Zone Management Agency
- (4) Head of each County
- (5) U.S. Environmental Protection Agency (regional office)
- (6) U.S. Fish and Wildlife Service
- (7) U.S. Army Corps of Engineers
- (8) National Park Service
- (9) U.S. Natural Resources Conservation Service
- (10) The National Geodetic Survey
- (11) State Historic Preservation Office
- (12) Other Agencies Consulted (as listed)

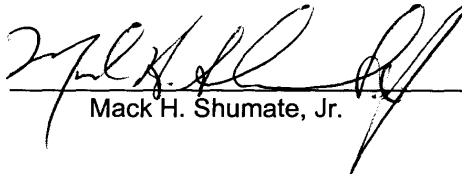
(The Certificate of Service attached to the Combined Environmental and Historic Report lists the names and addresses of the federal, state and local agencies served.)

49 C.F.R. § 1105.12 - Newspaper Notice

The undersigned further certifies that a "Notice of Intent to Abandon or to Discontinue Rail Service" was published in the form prescribed by the Board for a Notice of Exemption. The notice was published one time in a major newspaper in the county in which the Line is located as follows:

<u>County</u>	<u>Newspaper</u>	<u>Date</u>
Marshall	<i>Marysville Advocate</i>	October 16, 2003

Dated this 28th day of October, 2003.


Mack H. Shumate, Jr.

X

ATTACHMENT 1 TO
EXHIBIT "B"



October 13, 2003

Kansas Corporation Commission
1500 SW Arrowhead Road
Topeka, KS 66604

National Park Service
William D. Shaddox
Chief, Land Resources Division
1849 "C" St., N.W., #MS3540
Washington, DC 20240

U.S. Department of Agriculture
Chief of the Forest Service
4th Flr. N.W., Auditors Bldg.
14th St. & Independence Ave., SW
Washington, DC 20250

Military Traffic Management Command
Transportation Engr. Agency
Railroads for National Defense
720 Thimble Shoals Blvd., Su.130
Newport News, VA 23606-2574

**RE: Docket No. AB-33 (Sub-No. 208X), Union Pacific Railroad Company -
Abandonment - In Marshall County, Kansas (Marietta Industrial
Lead from Milepost 133.13 near Marysville to Milepost 125.0 near
Marietta, a distance of 8.13 miles)**

Dear Sirs:

This is notice that Union Pacific Railroad Company ("UP") expects to be filing with the Surface Transportation Board ("STB") a Notice of Exemption seeking authority for an exempt abandonment of the Marietta Industrial Lead from milepost 133.13 near Marysville to milepost 125.0 near Marietta, a distance of 8.13 miles in Marshall County, Kansas (the "Line").

The Line traverses U. S. Postal Service Zip Code 66508. The proceeding will be docketed as No. AB-33 (Sub-No. 208X).

The "no business" exemption procedure will be used to abandon the Line, pursuant to the abandonment regulations of the Surface Transportation Board at 49 C.F.R. Section 1152.50. No local traffic has moved over the Line in at least two years and all overhead traffic (which there is none) on the Line can be rerouted. A Notice of Exemption will be filed with the Surface Transportation Board on or after October 23, 2003.

Based on information in our possession, the Line does not contain federally granted rights-of-way. Any documentation in the Railroad's possession will be made available promptly to those requesting it.

A map showing the Line to be abandoned is attached, for your information as Attachment 1.

Sincerely,

A handwritten signature in black ink, appearing to read "Mack H. Shumate, Jr.".

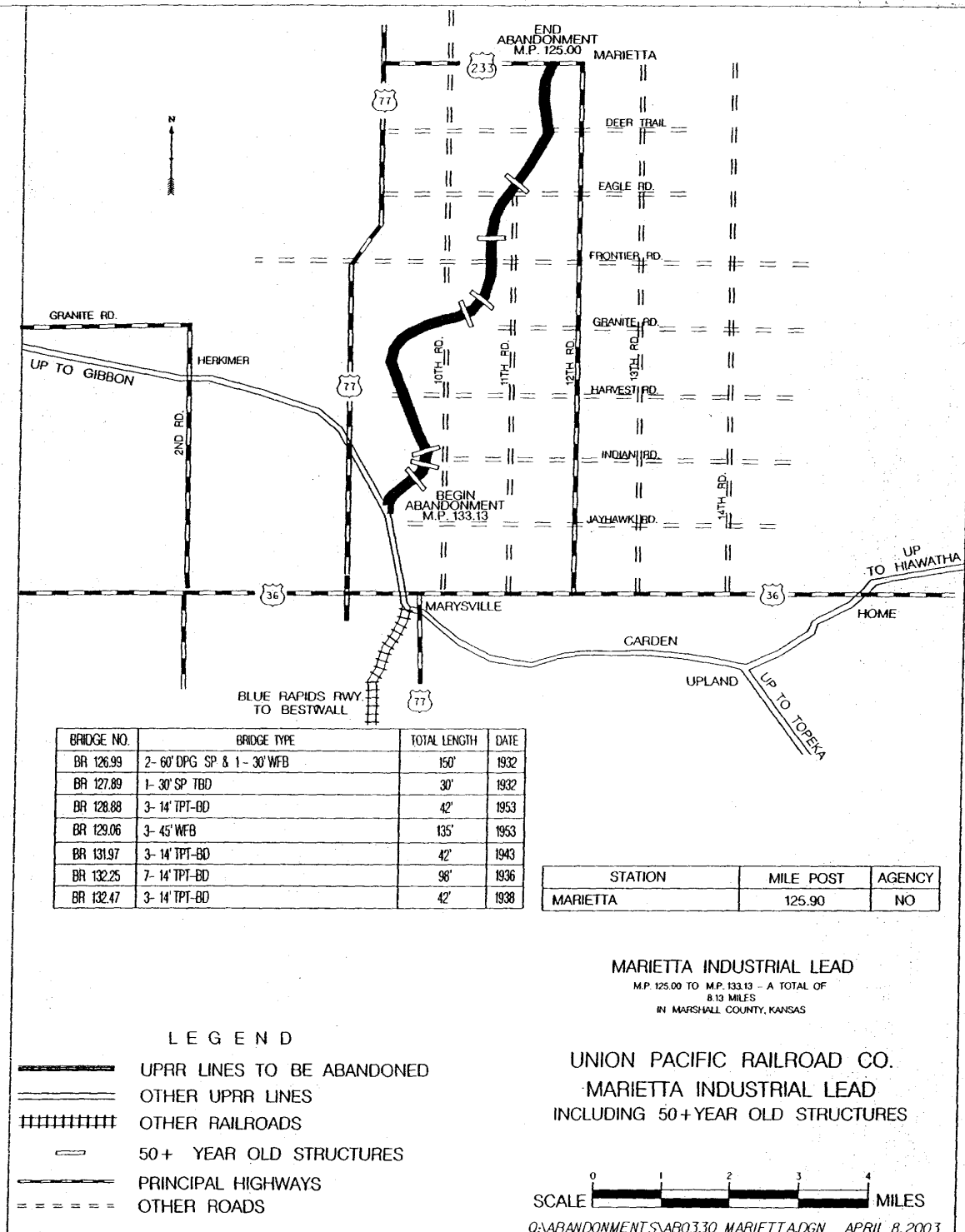
Mack H. Shumate, Jr.
Senior General Attorney, Law Department

Attachment

Cc: *Ray Allamory*

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UNION PACIFIC RAILROAD
101 N. Wacker Dr., Rm. 1920, Chicago, IL 60606-1718
ph. (312) 777-2055 fx. (312) 777-2065





September 24, 2003

VIA U.P.S. OVERNIGHT

Surface Transportation Board
Section of Environmental Analysis
1925 "K" St., N.W., Room 504
Washington, DC 20423-0001

Attention: Victoria Rutson

**RE: STB Docket No. AB-33 (Sub-No. 208X), Union Pacific Railroad Company -
Abandonment Exemption - In Marshall County, KS (Marietta Industrial
Lead) from M.P. 133.13 to M.P. 125.0**

Dear Ms. Rutson:

Enclosed for filing in the above-referenced docket is the original and ten (10) copies of a Combined Environmental and Historic Report prepared pursuant to 49 C.F.R. §1105.7 and §1105.8, with a Certificate of Service, and a transmittal letter pursuant to 49 C.F.R. §1105.11.

Union Pacific anticipates filing a Notice of Exemption in this matter on or after October 20, 2003.

Sincerely,

A handwritten signature in black ink, appearing to read "Mack H. Shumate, Jr.".

Enclosures

O:\ABANDONMENTS\33-208X\STB-NOE.wpd

Mack H. Shumate, Jr.
Senior General Attorney, Law Department

UNION PACIFIC RAILROAD
101 N. Wacker Dr., Rm. 1920, Chicago, IL 60606-1718
ph. (312) 777-2055 fx. (312) 777-2065

CERTIFICATE OF SERVICE
OF THE
COMBINED ENVIRONMENTAL AND HISTORIC REPORT

The undersigned hereby certifies that a copy of the foregoing Combined Environmental and Historic Report in Docket No. AB-33 (Sub-No. 208X), the Marietta Industrial Lead in Marshall County, Kansas was served by first class mail on the 24th day of September, 2003 on the following:

State Clearinghouse (or alternate):

Transportation Planning Bureau
Kansas Department of Transportation
Docking State Office Building
915 West Harrison
Topeka, KS 66612

Kansas Corporation Commission
1500 SW Arrowhead Road
Topeka, KS 66604

State Environmental Protection Agency:

Kansas Department of Health and Environment
Forbes Field, Bldg. 740
Topeka, KS 66620

State Coastal Zone Management Agency

(if applicable):

Not applicable.

Head of each County:

County Commissioners
Marshall County Courthouse
1201 Broadway
Marysville, KS 66508-1844

Environmental Protection Agency

(regional office):

U.S. Environmental Protection Agency
Region VII
901 North 5th Street
Kansas City, KS 66101

U.S. Fish and Wildlife:

U.S. Fish & Wildlife Service, Region 6
Assistant Regional Director
Box 25486
Denver Federal Center
Denver, CO 80225

U.S. Army Corps of Engineers:

U.S. Army Engineer Division - Kansas City District
700 Federal Building
Kansas City, MO 64106-2896

National Park Service:

William D. Shaddox
Chief, Land Resources Division
National Park Service
1849 "C" St., N.W., #MS2540
Washington, D.C. 20240

U.S. Natural Resources Conservation Service:

Natural Resource Conservation Service
760 South Broadway
Salina, KS 67401

National Geodetic Survey:

National Geodetic Survey
Edward J. McKay, Chief
Spatial Reference System Division
NOAA N/NGS2
1315 E-W Highway
Silver Spring, MD 20910-3282

State Historic Preservation Office:

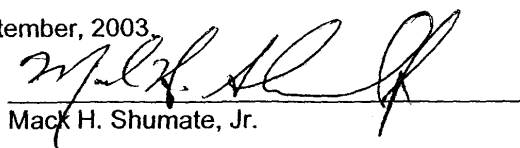
Kansas State Historical Society
6425 SW Sixth Avenue
Topeka, KS 66615

Other Agencies Consulted:

Wildlife & Parks Department
900 Southwest Jackson Street, \$502 N
Topeka, KS 66612

Water Resources Division
921 S. Kansas Ave., Fl 2
Topeka, KS 66612

Dated this 24th day of September, 2003.


Mack H. Shumate, Jr.